

FILED: October 24, 2016

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-3087
(4:97-cr-00020-BR-2)

In re: BORIS MURPHY,

Movant.

O R D E R

Boris Murphy has filed a motion pursuant to 28 U.S.C. §§ 2244(b), 2255(h) (2012) for authorization to file a second or successive 28 U.S.C. § 2255 (2012) motion. Murphy has made a prima facie showing that the new rule of constitutional law announced in Johnson v. United States, 135 S. Ct. 2551 (2015), and held to apply retroactively to cases on collateral review by Welch v. United States, 136 S. Ct. 1257 (2016), may apply to his case. We grant authorization for Murphy to file a second or successive § 2255 motion, thus permitting consideration of the motion by the district court in the first instance. We express no opinion on the timeliness or merits of Murphy's Johnson claim.

Entered at the direction of the panel: Judge Wilkinson,
Judge Motz, and Judge Diaz.

For the Court

/s/ Patricia S. Connor, Clerk